HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18983 of 2006

Dated:15.09.2006

Between:

Shaik Mohammad Haneef and another.

…Petitioner

and

The A.P.State Wakf Board.

…Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18983 of 2006

ORDER:

The first petitioner is the President and the second petitioner is the Secretary of the building construction Committee namely, Mohammadia Wakf Shopping Complex (hereinafter called, the Committee). The said Committee was constituted by the first respondent on 04.06.1999 for the purpose of taking up the construction of the complex. It appears, the first respondent also passed a resolution, being Resolution No.581/1999, dated 11.05.1999, sanctioning a sum of Rs.25,00,000/- (Rupees Twenty Five lakhs only) as a loan from out of the revolving fund for the construction of the first floor over the existing ground floor of the Committee situated in Survey No.229/1, Madras Road, Kadapa. The said amount is payable by the Committee in 120 monthly installments at the rate of Rs.27,547/- (Rupees Twenty Seven Thousand Five Hundred and Forty seven only) each. The said amount was sanctioned and released, and the Committee statedly has paid a sum of Rs.12,24,051/- (Rupees Twelve Lakhs Twenty Four Thousand and Fifty One only) till date, as alleged. The grievance of the petitioners as disclosed in para 8 of the affidavit is as under.

> I submit that the 2nd respondent, though have no power either to remove or abolish our committee namely

'Mohammadia Wakf Shopping complex', is resorting to appoint another committee with the person of their choice in our place. It is submitted that assuming the committee constituted can be replaced with other committee and it is necessary, the 1st respondent alone can do and not the 1st respondent. The previous wakf board has been superceded and the Board is yet to be constituted by the State Government. Taking advantage of the situation, the 2nd respondent is trying to constituted another committee in our place, which would cause financial problems to the present committee. The very fact that our committee was constituted by the wakf board shows that the District Wakf Committee has no role to play. At any rate, since we the members of the committee are fastened with financial liability, we can't be replaced by the 2nd respondent, who on the face of it, has no power.

A plain reading of the averment/allegation would show that the Writ Petition is filed on a mere apprehension. Merely because the first respondent is resorting to appoint the Committee, the same cannot be the cause of action for restraining the first respondent, which is exercising powers under the Wakf Act, 1995. As and when any adverse order is passed, the petitioners or any of the Committee members may agitate the matter before appropriate Forum.

The Writ Petition, with the above observations, is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

15.09.2006
vs